

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WAYNE BERRY,

Plaintiff,

vs.

DEUTSCHE BANK TRUST COMPANY AMERICAS (FKA BANKERS TRUST COMPANY) and JP MORGAN CHASE BANK in their separate capacities and as agents for the pre- and post-petition Lender Defendants of Fleming Companies, Inc.; GENERAL ELECTRIC CAPITAL CORPORATION; C&S WHOLESALE GROCERS, INC.; THE POST-CONFIRMATION TRUST OF FLEMING COMPANIES, INC.; ROBERT KORS; CORE-MARK HOLDINGS INC. and DOES 1 to 200

,

Defendants.

Case No. 01:07 CV 7634 (WHP)  
ECF Case

AFFIDAVIT OF ROBERT A. KORS IN SUPPORT OF THE PCT'S AND ROBERT KORS'  
MOTION FOR SANCTIONS UNDER FEDERAL RULE OF CIVIL PROCEDURE 11

**AFFIDAVIT OF ROBERT A. KORS**

I, ROBERT A. KORS, declare as follows:

1. I am an individual residing in the State of California and am the principal of Castellammare Advisors LLC. Pursuant to the PCT Agreement dated August, 19, 2004, the Fleming Post Confirmation Trust ("PCT") retained Castellammare Advisors LLC as the PCT Representative. As Mr. Berry has sued me in my personal capacity, I submit this affidavit in my personal capacity.

2. This affidavit addresses my professional and educational background and some of the impact caused by Mr. Berry's Second Amended Complaint, which includes a RICO claim against me.

3. I graduated from the Wharton School at the University of Pennsylvania in 1979 with a Bachelors of Science in Economics, *summa cum laude*.

4. I then attended Stanford Law School and earned a J.D. in 1982, where I served as the Notes Editor for the Stanford Law Review.

5. After clerking one year at the United States District Court in Los Angeles, California, I worked as an associate and then a partner in the Los Angeles office of Latham & Watkins.

6. In 1993, I left Latham & Watkins and served as the Chief Financial and Administrative Officer of Roll International Corporation in Los Angeles until 2003. Roll is a privately held company with over \$1 billion in revenues.

7. From 2003 to 2004, I worked as the Managing Director of the Los Angeles office of AEG Partners, a turnaround firm based outside of Chicago, Illinois.

8. Then in 2004, I formed Castellammare Advisors, LLC to provide turnaround management, financial advisory and related services to distressed companies and bankruptcy estates.

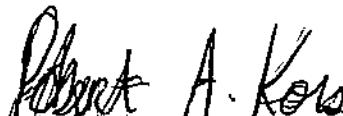
9. I had no connection to Fleming Companies, Inc. before Castellammare Advisors, LLC became the PCT representative.

10. I had never been sued before this lawsuit.

11. Mr. Berry's allegations against me apparently stem from Castellammare's representation of the Fleming unsecured creditors in a fiduciary capacity and under Bankruptcy Court jurisdiction. As this is a large part of the firm's business, I anticipate that Castellammare will seek similar engagements in the future. As a result of Mr. Berry's claims against me, I will have to disclose that I was personally sued for RICO violations to future prospective clients (and likely to the courts in which their cases are pending), as well as other parties.

12. I recently had to disclose the existence of this complaint in an application my wife and I submitted to obtain additional life insurance. I anticipate that similar disclosures will have to be made to any financial institutions and other insurance companies that I deal with in the future.

So sworn under penalty of perjury under the laws of the United States of America in Los Angeles, California, on 3/14, 2008.



Robert A. Kors

